

REMARKS

This Response is submitted in reply to the non-final Office action mailed on June 22, 2006. No fee is due in connection with this Response. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-459 on the account statement.

Claims 1-28 are pending in this application. In the Office Action, Claims 1-28 are rejected under 35 U.S.C. §103. For the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 1-7 and 11-28 are rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,669,975 to Abene ("*Abene*") and U.S. Patent No. 6,280,779 to Nadeau ("*Nadeau*") further in view of U.S. Patent No. 6,042,857 to Jones et al. ("*Jones*"). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

Independent Claims 1, 4, 11 and 13 recite, in part, obtaining a biological sample analysis from the pet after the pet has eaten a combination of the kibble and the additive based on an individual pet profile. Independent Claim 12 recites, in part, receiving an analysis from a biological sample of the pet after the pet has been eating a pet food manufactured according to the first pet food formula. The first pet food formula is based on an individual pet profile. In contrast, Applicants respectfully submit that, even if combinable, all of the claimed elements are not taught or suggested by the cited references.

The specification teaches that the analysis of the biological sample can be obtained after the pet has eaten, for a predetermined period of time, a combination of a customized pet food such as, for example, a first pre-manufactured kibble and the first custom additive produced based on individual pet profile information. The biological sample analysis can provide information that enhances the individual pet profile information and be used to modify and refine the customized pet food product by suggesting a different pre-manufactured kibble, adding specific additive ingredients, removing specific additive ingredients, and/or changing the amount of any included additive ingredient from the pet product formulation to enable the new formulation to better meet the needs of the pet.

Further, the biological sample analysis can determine a pet's individual reaction to a diet and the pet's ability to change its health status, including, but not limited to stool quality, immune status, oral/dental health, skeletal health, skin and coat health. The pet's individual reaction and ability to change may be different than a reaction of another pet in the same category to the same diet. For example, in creating pet foods for the "average" dog, digestion tests are typically conducted on a statistically large group of animals and their reactions averaged. The predictions are made on how these diets may fare for other similar dogs. Individual variations are thus excluded during creating foods for the "average" pet. It is these individual variations that can be addressed by using the claimed methods.

Applicants respectfully submit that, even if combinable, the cited references do not disclose or suggest all of the claimed elements. For example, *Abene* fails to disclose or suggest obtaining a biological sample analysis from the pet after the pet has eaten a combination of a first kibble and additive based on an individual pet profile as required, in part, by Claims 1, 4, 11 and 13. *Abene* also fails to disclose or suggest receiving an analysis from a biological sample of the pet after the pet has been eating a pet food manufactured according to the first pet food formula as required, in part, by Claim 12. The Patent Office admits same. See, Office Action, page 3, lines 16-19.

Similarly, *Nadeau* and *Jones* fail to disclose or suggest obtaining a biological sample analysis from the pet after the pet has eaten a combination of a first kibble and additive based on an individual pet profile as required, in part, by Claims 1, 4, 11 and 13. *Nadeau* and *Jones* also fail to disclose or suggest receiving an analysis from a biological sample of the pet after the pet has been eating a pet food manufactured according to a first pet food formula based on an individual pet profile as required, in part, by Claim 12. In fact, *Nadeau* and *Jones* fail to disclose or suggest any first kibble and additive or pet food based on an individual pet profile.

Although *Nadeau* is said to teach obtaining a biological samples analysis, the stool sample in *Nadeau* is taken after feeding a pet a general meat chunk-in-gravy pet food. See, *Nadeau*, column 4, lines 36-58. However, this meat chunk-in-gravy pet food is not based on any individual profile of the pet. *Jones* fails to even disclose or suggest obtaining any biological sample analysis from a pet.

For at least the reasons discussed above, even if combinable, *Abene*, *Nadeau* and *Jones* do not teach, suggest, or even disclose all of the elements of Claims 1, 4 and 11-13 and Claims 2-3, 5-7 and 14-28 that depend from these claims, and thus, fail to render the claimed subject matter obvious.

In the Office Action, Claims 8-10 are rejected under 35 U.S.C. §103(a) as unpatentable over *Abene* and *Nadeau* further in view of U.S. Patent No. 5,340,211 to Pratt ("*Pratt*"). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

Independent Claim 8 recites, in part, obtaining a biological sample analysis from the pet after the pet has eaten a combination of the kibble and the additive based on an individual pet profile. In contrast, Applicants respectfully submit that, even if combinable, the cited references fail to disclose or suggest every element of Claim 8.

Abene fails to disclose or suggest obtaining a biological sample analysis from the pet after the pet has eaten a combination of the first kibble and additive based on an individual pet profile as required, in part, by Claim 8. The Patent Office admits same. See, Office Action, page 3, lines 16-19. Similarly, *Nadeau* fails to disclose or suggest obtaining a biological sample analysis from the pet after the pet has eaten a combination of a first kibble and additive based on an individual pet profile as required, in part, by Claim 8. Instead, the stool sample of *Nadeau* is taken after feeding a pet a general meat chunk-in-gravy pet food that is not based on any individual profile of the pet. See, *Nadeau*, column 4, lines 36-58.

Finally, *Pratt* fails to disclose or suggest obtaining a biological sample analysis from the pet after the pet has eaten a combination of the first kibble and additive based on an individual pet profile as required, in part, by Claim 8. Instead, *Pratt* is entirely directed to measuring and dispensing microingredient additives into a liquid carrier. See, *Pratt*, column 3, lines 26-31. *Pratt* fails to even teach any first kibble and additive based on an individual pet profile or obtaining a biological sample from a pet after the pet has consumed the first kibble and additive.

For at least the reasons discussed above, Applicants respectfully submit that Claim 8 and Claims 9-10 that depend from Claim 8 are novel, nonobvious and distinguishable from the cited references.


Accordingly, Applicants respectfully request that the rejections of Claims 1-28 under 35 U.S.C. §103 be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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